

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS, WACO DIVISION

FLO BLENDEN

Plaintiff,

VS.

UNITED STATES POSTAL SERVICE

Defendant.

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CASE NO. 6:19-CV-2

PLAINTIFF'S ORIGINAL COMPLAINT

A. PARTIES

1. Plaintiff is an individual who resides in Texas.
2. Defendant, UNITED STATES POSTAL SERVICE, an agency of the United States of America may be served by serving the United States through delivering a copy of the summons and of the complaint to the United States Attorney for the Western District of Texas, Waco Division, by sending a copy of the summons and of the complaint by certified mail to the Attorney General of the United States and to defendant, and by sending a copy of the summons and of the complaint by certified mail to Megan J. Brennan, Postmaster General and Chief Executive Officer, at 475 L'Enfant Plaza, SW, Room 4012, Washington, DC 20260-2200.

B. JURISDICTION

3. The Court has jurisdiction over the lawsuit under 28 U.S.C. §1331(b) because the suit involves a claim against the United States for personal injury caused by the negligent act of a government employee while acting within the scope of his or her employment. More specifically, a mat used for cushioning of the post office was not placed properly causing a dangerous condition on the premises.

C. VENUE

4. Venue is proper in this district under 28 U.S.C. §1402(b) because Plaintiff resides in this district.

D. CONDITIONS PRECEDENT

5. Plaintiff timely presented this claim in writing to Defendant United States Postal Service. Defendant United States Postal Service failed to make a final disposition of the claim within six months after it was presented.

E. FACTS

6. On January 4, 2017, Flo Blenden was entering the United States Postal Service post office located at 430 State Highway 6, Waco, McLennan County, Texas through the front doors, which building is owned and operated by Defendant United States Postal Service.

A customer opened the door for her. As she was entering, her foot went under a well worn floor mat on the outside entryway. The mat appeared to be very worn and was no longer flat which caused Mrs. Blenden to trip when entering the door. She fell breaking her hip. She underwent surgery and has had physical rehabilitation for her injuries.

Interestingly, Mrs. Blenden was told by her rehab nurse that they had treated a number of clients that had fallen at the post office. In addition, Ms. Blenden's son went by the location the next day and a brand new floor mat had replaced the old one.

F. FEDERAL TORT CLAIMS ACT

7. This acts and omissions of Defendant was negligent. Specifically, Defendant is a governmental agency and as such had the duty to exercise ordinary care, by and through its employees, and specifically had the duty to exercise ordinary care in the placement of equipment such as floor mats, in a reasonably and prudently safe manner. Plaintiff is a public invitee to the premises of Defendant. Under the laws of the State of Texas, a private person would be liable to plaintiff for this act and omission. Under 28 U.S.C. §2674, the United States is liable to Plaintiff for her damages resulting from the personal injury described below.

G. DAMAGES

8. As a direct and proximate result of Defendant's negligence, Plaintiff suffered the following injuries and damages:

- a. Physical pain and mental anguish in the past and future.
- b. Disfigurement in the past and future.
- c. Physical impairment in the past and future.
- d. Medical expenses in the past and future.

- e. Loss of consortium in the past and future.
- f. Loss of household services in the past and future.

H. PRAYER

9. For these reasons, plaintiff asks for judgment against defendant for the following:

- a. Actual damages.
- b. Costs of suit.
- c. Prejudgment and postjudgment interest.
- d. All other relief the Court deems appropriate.

Respectfully submitted,

DUMAS LAW FIRM
A Professional Corporation
425 AUSTIN AVENUE, 22ND FLOOR
Waco, Texas 76701
(254) 424-0408
(254) 776-8555/Facsimile
ddumas062163@yahoo.com

BY: 

David W. Dumas
State Bar No. 06200990

ATTORNEYS FOR PLAINTIFF

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY